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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,976	10/30/2003	Robert Slazas	CRD5058-US-NP	7859
27777 7590 04/30/2008 PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003				
EXAMINER BHATIA, AARTI				
ART UNIT		PAPER NUMBER		
3763				
MAIL DATE		DELIVERY MODE		
04/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/696,976

**Applicant(s)**

SLAZAS ET AL.

**Examiner**

AARTI BHATIA

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/10/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6, 9, 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, 10-15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the second Office Action based on the 10/696,976 application filed on 10/30/2003. Claims 1-3, 6-15, 17-19, as amended on 8/10/2007, are currently pending and have been considered below.

#### ***Response to Amendment***

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 2, 7, 8, 10-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,929,236 to Sampson in view of U.S. Patent No. 6,033,388 to Nordstrom et al.

Sampson discloses a gripper and catheter system (figures 1-4) for treating a patient comprising: a catheter shaft (40) having a proximal end and a distal end; the shaft defining a longitudinal axis; a hub (10) affixed to the catheter shaft near its proximal end; the hub providing a handle for manipulating the catheter shaft, the hub having a larger size than an outer radial dimension of the catheter shaft; a tubular gripper (42) surrounding a portion of the catheter shaft, the gripper defining inner and outer surfaces; the gripper outer surface having a plurality of outwardly protruding ridges extending transversely in a ring around the outer surface of the gripper (44,46); wherein the gripper is movable from an initial position to a desired position, at least a portion of the gripper being flexible so that it can be temporarily squeezed to cause at least a portion of the gripper inner surface to contact a portion of an outer surface of the catheter shaft to that the gripper can transmit frictional forces to the catheter shaft; when the squeezing pressure is released, the gripper tends to resiliently return to its original shape; such that the gripper may be moved to a second desired position on the catheter shaft; wherein the gripper is initially affixed to the hub and the physician must initially

break an attachment to move the gripper to the first desired gripping position, wherein the gripper is releasably locked in an initial position by a snap-fit with the hub (column 4, lines 22-36); further comprising a strain relief tube (34) affixed to the hub and catheter shaft, the gripper in an initial position surrounding at least a portion of the strain relief tube (see figure 3); wherein an initial gap is defined between an outer dimension of the catheter shaft and an inner dimension of the gripper (see figure 1).

Sampson teaches that the gripper **outer** surface snap-fits **into** the catheter hub, instead of the gripper **inner** surface snap-fitting **over** the catheter hub.

Nordstrom teaches a gripping member (14) which has an inner surface with an indentation which can snap fit over a matching protrusion of the outer surface of the catheter hub (16), or could fit over a protruding ring of a strain relief tube, for a for a releaseable interference fit which tends to releasably hold the gripper in an initial position (see figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter gripper system of Sampson with the over the hub snap-fit of Nordstrom, instead of the inside the hub snap-fit, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Further it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter gripper system of Sampson and Nordstrom with a gripper is made of a polymer material having a high coefficient of

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friction selected from the group: rubber, polyurethane silicone rubber, and PEBA; and with a catheter shaft which has a lubricious coating and an outer dimension of approximately 2 millimeters or less, as these are all very well known features of catheters in the art.

### ***Response to Arguments***

5. Applicant's arguments with respect to Claims 1, 2, 4, 5, 7, 8, 10, 12, 13, and 15-17 have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant argues that Sampson does not teach the limitation of the indentation in the inner surface of the gripper, however, this limitation was not in Claim 1 as originally presented. As this limitation has now been incorporated to claim 1, the Examiner has provided prior art which renders this limitation obvious.
7. The objection to the drawings has been withdrawn in view of the cancellation of Claim 16.
8. The objection the specification has been withdrawn, as the typographical error indicated appears instead to be a stray mark from photocopying.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARTI BHATIA whose telephone number is (571)270-5033. The examiner can normally be reached on Monday-Thursday 8:00am -6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aarti Bhatia/  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763